

# **EXHIBIT 5**

## Press Releases

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### KAPLAN BROKERS PLEAD GUILTY TO LATE TRADING

### AG, SEC Continue Coordination of Mutual Fund Industry Probe

Attorney General Eliot Spitzer said today that two executives of a Florida-based investment company have pleaded guilty to state criminal charges in connection with the ongoing investigation of illegal trading practices in the mutual fund industry.

In a related development, the Securities & Exchange Commission (SEC) announced a civil action against the pair.

According to the attorney general's criminal charges and the SEC findings, the two employees of Kaplan & Company Securities engaged in illegal late trading of mutual funds on behalf of Kaplan and specific hedge fund clients.

Delano N. Sta. Ana and Lawrence S. Powell, two brokers at Kaplan, pleaded guilty in State Supreme Court to a violation of New York's Martin Act, General Business Law Section 352-c(6), a Class E felony, which is punishable by a maximum term of one to four years in state prison.

The SEC also issued an administrative order finding that Sta. Ana and Powell committed securities fraud. In partial settlement of that action, the two men have agreed to pay a fine of \$750,000, split equally. The order also bars the two from the securities industry.

According to the charges, Sta. Ana and Powell placed mutual fund orders after 4 pm EST, but obtained prices that had been set as of 4 pm. This allowed Kaplan customers to capitalize on news events and market changes occurring after the close of the stock market.

Kaplan is a privately-held financial services firm based in Boca Raton, Florida. One of its clients was the hedge fund, Canary Capital Partners.

Attorney General Spitzer thanked the SEC's Southeast Regional Office for its cooperation in the matter.

The case is being prosecuted by Assistant Attorney General John C. Henry of the Investor Protection and Securities Bureau under the supervision of Harold Wilson of the Criminal Prosecutions Bureau.

The SEC investigation was led by Southeast Regional Director David Nelson, with Glenn Gordon, Eric Busto, Gary Miller and Elisha Anagnostis.

Since Spitzer announced a settlement relating to illegal trading practices with Canary in September 2003, the

investigation into the mutual funds industry has resulted in agreements that will provide \$1.17 billion in restitution to investors, \$821 million in civil penalties, and \$925 million in anticipated reductions in mutual fund fees over five years, totaling over \$2.9 billion in value. There have been four other criminal convictions and charges are pending against four other persons. The investigation is continuing.

- Powell Complaint
  - Sta. Ana Complaint
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